

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BERNARDO MENDIA,

Plaintiff,

v.

COUNTY OF CONTRA COSTA,

Defendant.

Case No. [4:19-cv-03193-KAW](#)

**ORDER DISCHARGING ORDER TO
SHOW CAUSE; ORDER REGARDING
REQUEST FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT**

Re: Dkt. Nos. 9, 10

On June 7, 2019, Plaintiff Bernardo Mendia filed this action. Plaintiff failed to timely complete service of the complaint and summons by September 5, 2019, and did not file a motion for administrative relief from the deadline pursuant to Civil L.R. 7-11. On September 27, 2019, the undersigned issued an order to show cause why this matter should not be dismissed for failure to comply with the deadline to complete service on Defendant or to file a motion for administrative relief. (Dkt. No. 9.) Plaintiff was also ordered to serve Defendant and file a proof of service by October 15, 2019. *Id.*

On October 15, 2019, Plaintiff filed a response to the order to show cause, and explained that he was seeking the assistance of counsel to prosecute this action and was in the process of obtaining additional facts regarding his claims before filing a first amended complaint. (Dkt. No. 10 at 1.) Plaintiff then requested that he be permitted to file a first amended complaint by November 15, 2019. *Id.* at 2.

Pursuant to Federal Rule of Civil Procedure 15(a)(1)(A), Plaintiff may amend his complaint once as a matter of course within 21 days of serving the original complaint. Since Plaintiff has not served the original complaint, he does not need to obtain leave of court to file his first amended complaint. Plaintiff does, however, require the Court's permission for an extension


1 of time to complete service of the operative complaint and summons on the defendants. Since
2 Plaintiff is pro se, the Court will construe his request for leave to file an amended complaint as a
3 request for an extension of time to serve Defendant(s).

4 Accordingly, the September 27, 2019 order to show cause is DISCHARGED, and Plaintiff
5 shall have until **December 16, 2019** to serve his operative complaint—which may be a first
6 amended complaint or the original complaint—on Defendant(s). Plaintiff is advised that should
7 additional time be required to complete service, he is responsible for affirmatively seeking relief
8 from the deadline by filing a motion for administrative relief pursuant to Civil L.R. 7-11. Failure
9 to do so may result in the case being reassigned to a district judge with the recommendation that it
10 be dismissed without prejudice for failure to prosecute. Also, Plaintiff is reminded that he must
11 file a certificate of service on the docket after service is effectuated.

12 Finally, the November 5, 2019 case management conference is continued to **February 4,**
13 **2020** at 1:30 p.m. in Courtroom 4, 1301 Clay Street, 3rd Floor, Oakland, California. Case
14 management statements are due on or before January 28, 2020.

15 IT IS SO ORDERED.

16 Dated: October 25, 2019

17 
18 KANDIS A. WESTMORE
United States Magistrate Judge